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DECISION



*J. Vachera
Proc I*

**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-187666

DATE: December 6, 1976

MATTER OF: Perry C. Herford

DIGEST:

Where IFB requires 10-day bid acceptance period and protester limits acceptance period to 5 days, rejection of bid was proper as bid acceptance period is material requirement and failure to comply renders bid nonresponsive.

On August 23, 1976, the United States Department of Agriculture, Forest Service, issued invitation for bids (IFB) No. 16-1-76-78 for spot-site preparation in the Fort Rock Ranger District, Bend, Oregon.

Perry C. Herford submitted the low bid in response to the IFB but his bid was rejected as nonresponsive because it did not comply with the bid acceptance period required and was unsigned.

The IFB contained Standard Form (SF) 33, which stated, as follows, regarding the bid acceptance period:

"In compliance with the above, the undersigned offers and agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered, at the price set opposite each item, delivered at the designated point(s), within the time specified in the Schedule."

The IFB also stated, in the "Supplemental Instruction and Conditions" of SF 33A, that "Offers specifying less than ten (10) calendar days for acceptance by the Government from the date set for opening will be considered nonresponsive and will be rejected."

Mr. Herford inserted "5" days in the blank on SF 33 which resulted in the contracting officer determining his bid nonresponsive. Mr. Herford argues that he overlooked the clause requiring

B-187666

10 days and instead based his acceptance period on another portion of the IFB which stated that the notice to proceed was expected to be issued 5 days after bid opening.

We have consistently held that a provision in an invitation which requires that a bid remain available for acceptance by the Government for a prescribed period in order to be considered for award is a material requirement and that the failure to meet such a requirement renders a bid nonresponsive. 48 Comp. Gen. 19 (1968) and 46 *id.* 418 (1966). To hold otherwise affords the bidder which has limited its bid acceptance period an advantage over its competitors. When a bidder limits its bid acceptance period, it has the option to refuse the award after that time in the event of unanticipated increases in cost, or by extending its acceptance period to accept an award if desired. Bidders complying with the required acceptance period would not have that option but would be bound by the Government's acceptance. Miles Metal Corporation, B-182838, March 11, 1975, 75-1 CPD 145.

Accordingly, we find Mr. Herford's bid to have been properly rejected for this reason and, because of this holding, it is unnecessary to decide the other issue presented.


Deputy Comptroller General
of the United States